

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

LAMONT HEARD,

Plaintiff,

v.

Case No. 2:05-cv-231  
HON. GORDON J. QUIST

PATRICIA CARUSO, et al.,

Defendants.

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**OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. The Court has received objections from Plaintiff in the form of several motions relating to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made.

Plaintiff has filed a motion to stay the Report and Recommendation until the Court considers Plaintiff's amended and supplemental motions for summary judgment filed in response to the Report and Recommendation. Plaintiff's motion (Docket #61) is DENIED. The recommendation will not be stayed. Plaintiff is not entitled to summary judgment because he has failed to show a lack of a genuine issue of material fact. In Plaintiff's most recent attempt to obtain summary judgment, he argues an entitlement to summary judgment because every issue that he presented in his complaint is undisputed. Defendants have not agreed to Plaintiff's claim that this

matter is undisputed. Simply arguing that an issue is undisputed is insufficient to establish a lack of a genuine issue of material fact. Plaintiff's motion to file amended and supplemental motion for summary judgment (Docket #64) is DENIED. Plaintiff's motion to alter and reconsider the Report and Recommendation (Docket #68) is DENIED because plaintiff has not provided any basis for the court to conclude that the recommendation was improper. Plaintiff clearly failed in his burden to show a lack of a genuine issue of material fact. Plaintiff has also filed a motion for discovery. That motion (Docket #62) is DENIED.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (Docket #55) is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that defendants' motion to dismiss (Docket #41) is DENIED, plaintiff's motion for preliminary injunction (Docket #20) is DENIED, and plaintiff's motion for summary judgment (Docket #35) is DENIED.

Dated: August 22, 2006

/s/ Gordon J. Quist  
GORDON J. QUIST  
UNITED STATES DISTRICT JUDGE